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Dated: February 5, 2010
Electronic Signature for Nicholas J. DiCeglie, Jr.: /Nicholas J. DiCeglie, Jr./

Docket No.: 64391(41925)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Christian Hubschwerlen et al.

Application No.: 10/554,732

Confirmation No.: 9693

Filed: January 5, 2007

Art Unit: 1617

For: USE OF OXAZOLIDINONE-QUINOLINE
HYBRID ANTIBIOTICS FOR THE
TREATMENT OF ANTHRAX AND OTHER
INFECTIONS

Examiner: P. E. Zarek

SUPPORTING STATEMENT ESTABLISHING UNINTENTIONAL DELAY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

1. As stated in the petition to request withdrawal of an erroneous holding of abandonment filed with the U.S. Patent and Trademark Office (USPTO) on September 17, 2009, the Office Action issued from the USPTO on December 19, 2008, was never received by the undersigned Attorney(s) firm.

2. As part of routine monitoring of electronic records available for the application via PAIR, the undersigned Attorney(s) learned on June 22, 2009, that an Office Action had been issued from the USPTO on December 19, 2008. By the time of that discovery (June 22, 2009), the statutory six (6) month period for reply had expired. Without delay, the undersigned Attorney(s) contacted Examiner Zarek to advise him of same, and a petition to revive the application was promptly docketed.

3. The undersigned Attorney(s) subsequently received a Notice of Abandonment (mailed on August 21, 2009). As grounds for the abandonment, the Notice indicated that Applicant failed to reply to the Office Action purportedly mailed by the USPTO on December 19, 2008. A petition to request withdrawal of an erroneous holding of abandonment was then diligently prepared and filed without delay.

4. Copies of certain docketing records also were filed with the petition of September 17, 2009. However, with reference to the Decision mailed on December 7, 2009, the position was taken by the USPTO that such evidence failed to sufficiently support the petition to request withdrawal of the erroneous holding of abandonment.

5. While the undersigned Attorney(s) maintain that the Office Action purportedly mailed by the USPTO on December 19, 2008, was never received by our firm, the within Petition to Revive the Application is being filed concurrently herewith in order to reinstate the application and expedite its examination. Accordingly, it is respectfully requested that the present application be revived and that the Amendment being concurrently filed herewith be entered and considered by the Examiner.

Dated: February 5, 2010

Respectfully submitted,

Electronic signature: /Nicholas J. DiCeglie/
Nicholas J. DiCeglie, Jr.

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